

CLERK US DISTRICT COURT
NORTHERN DIST. OF TX
FILED

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS**

2019 NOV 15 AM 11:42

JENNIFER SALMONS,

§ IN THE DISTRICT COURT

COURT CLERK

Plaintiff,

V.

2-10CV-268-J

CIVIL ACTION NO.

**MURPHY-BROWN, LLC, a/k/a
SMITHFIELD PREMIUM GENETICS,**

Defendant.

PLAINTIFF'S ORIGINAL COMPLAINT

Plaintiff Jennifer Salmons files this Original Complaint against Defendant Murphy – Brown, LLC, a/k/a Smithfield Premium Genetics for violating state and federal law. The causes of action and summary of claims relating thereto are addressed below:

I. PARTIES, JURISDICTION AND VENUE

1. Plaintiff Jennifer Salmons (“Plaintiff” or “Salmons”) is currently a citizen and resident of the State of Texas.
2. Defendant Murphy-Brown, LLC, a/k/a Smithfield Premium Genetics (“Defendant” or “SPG”) is a Delaware corporation, authorized to do business, and is doing business, in the State of Texas. SPG’s main corporate office is located at 2822 Highway 24 West, Warsaw, NC 28398. Defendant may be served through its registered agent for service, C T Corporation System, 350 N. St. Paul, Suite 2900, Dallas, TX 75201-4234.
3. The court has jurisdiction to hear the merits of Plaintiff’s claims under 28 U.S.C. §1331 & §1343. Venue exists in this district and division as detailed in 28 U.S.C. §1391.
4. Plaintiff filed a “Charge of Discrimination” with the Texas Workforce

Commission/Texas Commission on Human Rights (“TWC”) and Equal Employment Opportunity Commission (“EEOC”) on or about April 3, 2009, alleging retaliation, and sexual harassment/discrimination. On May 28, 2010, the Equal Employment Opportunity Commission issued the following determination:

Respondent is an employer with the meaning of Title VII. Timelines and all other jurisdictional requirements for coverage have been met. Charging Party alleges that Respondent violated Title VII by subjecting her to a hostile work environment based on her sex, Female.

There is reasonable cause to believe that Respondent violated Title VII by subjecting Charging Party to a hostile work environment because of her sex, Female. Specifically, the evidence reveals that Charging Party was subjected to unwanted sexual conduct from Respondent’s employees, including Supervisor Jason Garth and Robert Pamplin. The evidence further shows that, despite Charging Party’s complaints to management, including Supervisor Jason Pooley and Human Resources Manager Angela Romaine, regarding the harassment, the company took no action to stop the harassment or discipline the harassers.

There is also reasonable cause to support a like-and-related finding that Respondent violated Title VII by suspending Charging Party in retaliation for her complaints of sexual harassment to Respondent. The evidence shows that, after Charging Party complained to Human Resources Manager Romaine about the harassment, she was suspended for three days without pay.

A Right to Sue was issued in this matter on September 29, 2010. This action is being commenced within the required statutory time limits.

III. FACTUAL BACKGROUND

5. In March of 2006, Salmons commenced employment with SPG. Beginning in 2007, (and getting progressively worse), Salmons' direct supervisor began engaging in sexually inappropriate and harassing actions. These actions included inappropriate gestures and comments towards Salmons, including leering at her breasts and crotch. It eventually escalated to the supervisor displaying his genitalia on a regular basis. Salmons asked her supervisor to stop, but the sexually-harassing actions continued. In addition, other employees made it a regular practice to pull down their pants, expose themselves, and urinate in front of Salmons, (despite there being a restroom only a few feet away). When Salmons asked that they stop, Salmon's supervisor called her a "fu*king bi*tch."

6. In December 2008, after an incident where another male employee purposely allowed his penis to fall out of his overalls, Salmons complained to her supervisor. Of course -- since her supervisor also engaged in similar actions -- little was done to rectify the situation. Thereafter, Salmons informed SPG's branch manager about the sexual-harassing events that were occurring, and he also failed to do anything to stop the male employees from committing further sexual-harassing actions. Finally, in early April of 2009, Salmons reported sexually-inappropriate behavior to SPG's director of human resources, who also did very little to correct the behavior. Salmons again complained about the sexual harassment later in the month, and she was told that nothing would be done to discipline anyone because she waited too long to report the harassing incidents. In fact, SPG's branch manager stated to Salmons, "if you were offended, you should have told someone or gotten a lawyer and took measures to correct it." Thereafter, Salmons was suspended for an alleged act of "verbal abuse," but this was just pretext, as Salmons was suspended for making complaints of sexual harassment.

7. In addition to the sexual harassment, Salmons was discriminated against because of her gender, in that she was required to perform traditionally female tasks, (i.e. washing and folding laundry), which the men were not required to do unless a woman was not present to do the task.

IV. CAUSE OF ACTION--VIOLATION OF TITLE VII & TCHRA

8. Plaintiff re-alleges and incorporates the allegations contained in Paragraphs 1 through 7 as if fully stated herein.

9. Plaintiff has satisfied all jurisdictional prerequisites in connection with her claim under the Civil Right Act of 1964 (as amended), 42 U.S.C. §§ 2000e *et. seq.* ("Title VII"), and the Texas Commission on Human Rights Act ("TCHRA"), TEX. LABOR CODE. §§21.001 *et. seq.*

10. SPG is an "employer" as defined by the TCHRA and Title VII.

11. Plaintiff is an "employee" as defined by the TCHRA and Title VII.

12. During the time that Plaintiff was employed by Defendant she was subjected to severe and pervasive sexual harassment and retaliation by Defendant for engaging in protected activity as defined by Title VII and the TCHRA. These actions created a hostile-work environment, and affected the terms and conditions of Plaintiff's employment, (including her suspension).

13. SPG did not have adequate policies or procedures in place to address the sexual harassment and retaliation, nor did it implement prompt remedial measures.

14. As described above, Defendant intentionally and willfully violated the TCHRA and Title VII by sexually harassing and retaliating against Plaintiff. In illegally harassing and retaliating against Plaintiff, Defendant acted with malice and/or reckless indifference to the statutory-protected rights of Plaintiff.

15. As a result of Defendant's violations of the TCHRA and Title VII, Plaintiff has suffered mental trauma, actual damages in the form of lost wages and benefits (past and

future), and other losses.

16. As a result of these willful violations of the TCHRA and Title VII, Plaintiff requests that she be awarded all compensatory and punitive damages, to which she is entitled, as outlined in the TCHRA and Title VII, as well as all equitable relief, and attorney fees and costs.

V. JURY DEMAND

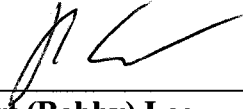
Plaintiff requests a trial by jury on all claims.

VI. PRAYER FOR RELIEF

Wherefore, Plaintiff requests that Defendant be cited to appear and answer, and that on final trial, Plaintiff have judgment against Defendant as follows:

- a. Judgment against Defendant for actual damages, including lost wages and benefits (both past and future), the sum to be determined at time of trial;
- b. Judgment against Defendant for compensatory damages, (including mental anguish damages), in the maximum amount allowed by law;
- c. Judgment against Defendant for punitive damages in the maximum amount allowed under law;
- d. An order that Defendants take such other and further actions as may be necessary to redress its violation of the law;
- e. Pre-judgment and post-judgment interest at the maximum amount allowed by law;
- f. Costs of suit, including attorney's fees;
- g. The award of such other and further relief, both at law and in equity, to which Plaintiff may be justly entitled under the TCHRA and Title VII.

Respectfully submitted by:



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Facsimile: (972) 867-9549

joelshah@verizon.net

ATTORNEYS FOR PLAINTIFF

JS 44 (Rev. 12/07)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS Jennifer Salmons	DEFENDANTS Murphy-Brown, LLC, a/k/a Smithfield Premium Genetics
(b) County of Residence of First Listed Plaintiff <u>Roberts County</u> (EXCEPT IN U.S. PLAINTIFF CASES)	County of Residence of First Listed Defendant _____ (IN U.S. PLAINTIFF CASES ONLY) NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.
(c) Attorney's (Firm Name, Address, and Telephone Number) Robert (Bobby) Lee of Lee & Brazier, LLP 1801 N. Lamar, Ste. 325, Dallas, TX 75202 (214) 749-1400	Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)	III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)																								
<input type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 2 U.S. Government Defendant <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	<table style="width: 100%;"> <tr> <th></th> <th>PTF</th> <th>DEF</th> <th></th> <th>PTF</th> <th>DEF</th> </tr> <tr> <td>Citizen of This State</td> <td><input checked="" type="checkbox"/> 1</td> <td><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td><input type="checkbox"/> 4</td> <td><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td><input type="checkbox"/> 5</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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IV. NATURE OF SUIT (Place an "X" in One Box Only)						
CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	TORTS <table style="width: 100%;"> <tr> <td style="vertical-align: top;"> PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury </td> <td style="vertical-align: top;"> PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability </td> </tr> </table>	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	FORFEITURE/PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
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V. ORIGIN (Place an "X" in One Box Only)							Appeal to District Judge from Magistrate Judgment
<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from another district (specify)	<input type="checkbox"/> 6 Multidistrict Litigation	<input type="checkbox"/> 7	

VI. CAUSE OF ACTION	Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): Brief description of cause: <u>Sexual Harassment</u>
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VII. REQUESTED IN COMPLAINT:	<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23	DEMAND \$	CHECK YES only if demanded in complaint: JURY DEMAND: <input type="checkbox"/> Yes <input type="checkbox"/> No
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VIII. RELATED CASE(S) IF ANY	(See instructions): JUDGE <u> </u>	DOCKET NUMBER <u> </u>
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DATE 11/11/2010 SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

 RECEIPT # 1142031-15 AMOUNT 300.00 APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____